

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF OHIO  
3 WESTERN DIVISION  
4  
5 DOUGLAS W. BAILLIE,  
6 Plaintiff,  
7 vs.  
8 CHUBB & SON INSURANCE,  
9 Defendant.  
10  
11 DEPOSITION OF: DOUGLAS W. BAILLIE  
12 TAKEN: By the Defendant  
13 Pursuant to Agreement  
14 DATE: May 9, 2002  
15 TIME: Commencing at 9:35 a.m.  
16 PLACE: Frost Brown Todd LLC  
17 2200 PNC Center  
18 201 East Fifth Street  
19 Cincinnati, Ohio 45202  
20  
21 BEFORE: Karen Volk, CSR, RPR  
22 Notary Public - State of Ohio  
23  
24

CASE NO.  
C-1-02-062

1 APPEARANCES:  
2  
3 On behalf of the plaintiff:  
4 Randolph H. Freking, Esq.  
5 and  
6 Mark W. Napier, Esq.  
7 of  
8 Freking & Betz  
9 215 East Ninth Street  
10 Fifth Floor  
11 Cincinnati, Ohio 45202  
12  
13 On behalf of the defendant:  
14 David T. Croall, Esq.  
15 of  
16 Frost Brown Todd LLC  
17 2200 PNC Center  
18 201 East Fifth Street  
19 Cincinnati, Ohio 45202-4182  
20  
21 Also present:  
22 Tim Szerlong  
23 Leonard C. Sherer  
24

I N D E X			
1	DOUGLAS W. BAILLIE	PAGE	
2	Cross-Examination by Mr. Croall	4	
3			
4	EXHIBITS	MARKED	REFERENCED
5	Baillie Exhibit 1	61	61
6	Baillie Exhibit 2	78	78
7	Baillie Exhibit 3	78	78
8	Baillie Exhibit 4	134	134
9	Baillie Exhibit 5	136	137
10	Baillie Exhibit 6	141	141
11	Baillie Exhibit 7	142	142
12	Baillie Exhibit 8	147	147
13	Baillie Exhibit 9	153	153
14	Baillie Exhibit 10	153	153
15	Baillie Exhibit 11	159	160
16	Baillie Exhibit 12	164	164
17	Baillie Exhibit 13	167	167
18	Baillie Exhibit 14	168	168
19	Baillie Exhibit 15	169	169
20	Baillie Exhibit 16	172	172
21	Baillie Exhibit 17	173	174
22	Baillie Exhibit 18	173	174
23	Baillie Exhibit 19	177	177
24	Baillie Exhibit 20	177	177
25	Baillie Exhibit 21	179	179
26	Baillie Exhibit 22	190	190
27	Baillie Exhibit 23	190	190
28	Baillie Exhibit 24	194	194
29	Baillie Exhibit 25	194	195
30	Baillie Exhibit 26	197	197
31	Baillie Exhibit 27	197	197
32	Baillie Exhibit 28	200	200
33	Baillie Exhibit 29	201	201
34	Baillie Exhibit 30	202	202
35	Baillie Exhibit 31	212	212
36	Baillie Exhibit 32	213	213
37	Baillie Exhibit 33	216	216

1 DOUGLAS W. BAILLIE  
2 of lawful age, a witness herein, being first duly sworn as  
3 hereinafter certified, was examined and deposed as follows:  
4 CROSS-EXAMINATION  
5 BY MR. CROALL:  
6 Q. Good morning, Mr. Baillie.  
7 A. Good morning.  
8 Q. We just met a minute ago. My name is David  
9 Croall and I'm one of the attorneys working on the lawsuit  
10 that you filed against Chubb.  
11 The reason we're together this morning is so  
12 that I can ask you some questions about what led up to the  
13 filing of that lawsuit.  
14 If you would answer those questions to the best  
15 you can. It's not my purpose to try to trick you, to get  
16 you to say things you don't mean to say.  
17 I want you to be comfortable that you  
18 understand my questions. If you don't understand my  
19 question, I want you to tell me that and I'll try to restate  
20 it.  
21 Any time you want to take a break, just say so.  
22 Although, if there's a question, I'll ask you to answer the  
23 question before you take a break.  
24 Any time you want to consult with Mr. Freking

29

1 Q. What were your responsibilities in that  
2 position?  
3 A. In charge of the marketing organization of  
4 north Jersey.  
5 Q. How big a group is that?  
6 A. It was the largest branch at the time. We had  
7 about 150 agents. I think it was up to about 150 million  
8 but I wouldn't quote me on that.  
9 Q. Who did you report to in the marketing job?  
10 A. Terry Cavanaugh.  
11 Q. What was his title at that point?  
12 A. He was branch manager.  
13 Q. How long were you in the marketing position?  
14 A. Three years about.  
15 Q. Then was it moved to Harrisburg or are we not  
16 there?  
17 A. Yes, then we moved to Harrisburg.  
18 Q. How did it happen that you got that position?  
19 Who hired you for it?  
20 A. Ed Dunlop.  
21 Q. What was his title?  
22 A. He was the zone manager.  
23 Q. Eastern zone?  
24 A. Uh-huh.

30

1 Q. Yes?  
2 A. Yes.  
3 Q. Tell me what -- your job in Harrisburg was  
4 branch manager?  
5 A. Yes.  
6 Q. What were the responsibilities for that  
7 position?  
8 A. Managing the underwriting, marketing, claims,  
9 loss control, all the departments that comprise the Chubb  
10 system for that territory. The job was to start a new  
11 office and grow the territory.  
12 Q. So there was not a Harrisburg office before  
13 that?  
14 A. No.  
15 Q. So were you responsible for hiring staff from  
16 the ground up?  
17 A. From the ground up.  
18 Q. How big an office did it start out as?  
19 A. 25 people, it started off at about 14 million.  
20 Q. We're in 1991?  
21 A. Yes.  
22 Q. '91, '92?  
23 A. '91.  
24 Q. How long were you in the Harrisburg job, until

31

1 '98; is that right?  
2 A. Until 1998.  
3 Q. I take it the basic job responsibilities stayed  
4 the same, the office grew?  
5 A. Yes.  
6 Q. How much did it grow during the --  
7 A. Grew to about 50 million.  
8 Q. How many employees?  
9 A. We still kept it at 25.  
10 Q. Was the Harrisburg branch profitable during the  
11 years you were there?  
12 A. They were profitable five of the seven, yeah.  
13 Q. Do you remember which two years weren't  
14 profitable?  
15 A. Yes. '96, there was a huge snowstorm that came  
16 through where we had huge cat losses.  
17 Q. Cat losses?  
18 A. Catastrophe losses. Then '98, we had the  
19 residual -- some umbrella losses as a result of the snow and  
20 some other umbrella losses, and that wasn't profitable. But  
21 the other years were extremely profitable.  
22 Q. You said '96 and '98?  
23 A. I believe.  
24 Q. You're not talking to an insurance guy. Help

32

1 me out with the umbrella losses.  
2 A. The umbrella was --  
3 MR. FREKING: You should get some, Dave.  
4 MR. CROALL: I may have one, that doesn't mean  
5 I know what it is.  
6 A. I think you do. The umbrella would be over a  
7 million dollars. So if you --  
8 Q. So --  
9 A. When you get a loss over a million, the  
10 umbrella kicks in, so they tend to be bigger losses.  
11 Q. So you've got the excess loss over either --  
12 A. Right.  
13 Q. -- another Chubb policy or some other insurance  
14 policy --  
15 A. Right.  
16 Q. -- which has reached its limit of liability?  
17 When you were the Harrisburg branch manager, say the last  
18 couple of years, who were your direct reports? What kinds  
19 of positions reported to you?  
20 A. Personal lines manager, commercial lines  
21 manager, loss control manager, claims manager, operations  
22 manager, executive protection manager, and umbrella manager.  
23 Q. How big a territory was covered by Harrisburg?  
24 Is it pretty much central and eastern Pennsylvania or --

37

1 time on.  
 2 Q. Any other organizations you're a member of?  
 3 Are you a member of a church?  
 4 A. No. I belong to Mensa, but only, really, as a  
 5 paying member.  
 6 Q. No activities? No meetings?  
 7 A. I didn't get involved. I used to read the  
 8 newsletter, look for things, but I didn't really get  
 9 involved.  
 10 Q. How long have you been a member of Mensa?  
 11 A. 1990.  
 12 Q. Any professional organizations you're active  
 13 in? Any insurance industry groups?  
 14 A. Yeah. I was active in the technology local  
 15 group here. I would attend the meetings.  
 16 Q. What's the name of the group?  
 17 A. Boy, they changed it. It was the software  
 18 association. I was also active in RIMS, which is Risk  
 19 Insurance Management Service, up in the Columbus office,  
 20 attended some of the meetings down in Cincinnati, also.  
 21 And spoke at and attended the Risk Insurance  
 22 Services Organization. That may be wrong, the name I gave  
 23 you. It's a local group that puts on educational --  
 24 Q. Here in Cincinnati?

38

1 A. Here in Cincinnati.  
 2 Q. Once you get settled in Jacksonville you'll  
 3 look for some opportunities --  
 4 A. Yes.  
 5 Q. -- to get similarly involved in those kinds of  
 6 groups?  
 7 A. I'll try.  
 8 Q. How much travel is there in connection with  
 9 your new job?  
 10 A. Substantial.  
 11 Q. Can you put a percentage on it? Is it  
 12 half-time travel?  
 13 A. I would say 40 percent would be a good  
 14 percentage. It's early yet but that seems to be what it is.  
 15 yeah.  
 16 Q. Nationwide or eastern?  
 17 A. East companies.  
 18 Q. Eastern Mississippi?  
 19 A. East companies.  
 20 Q. Tell me about the Cincinnati regional job when  
 21 you started, say the first six months, what was your take on  
 22 the Cincinnati regional job?  
 23 A. Well, they had some real morale problems. They  
 24 just lost three of their big executives, their branch

39

1 manager, marketing manager and the commercial lines manager.  
 2 Q. Reynolds was the branch manager?  
 3 A. Yes.  
 4 Q. Who were the other two?  
 5 A. Joe Beneducci was the marketing manager and  
 6 Jeff Kapp was the commercial lines manager. They had all  
 7 left the company for other jobs.  
 8 At the same time they had just deregionalized  
 9 or I should say they regionalized Louisville and Columbus,  
 10 collapsed those branches, took away the infrastructure of  
 11 those branches and moved it all into Cincinnati. There  
 12 was --  
 13 Q. When did that happen, before you got here?  
 14 A. Just before I got there.  
 15 Q. So those had been separate branches before?  
 16 A. Right.  
 17 Q. Now they were sort of satellites of the  
 18 Cincinnati --  
 19 A. Yeah, and there was some displacement of people  
 20 and layoffs there. The tone was pretty negative. The  
 21 service was awful. There was about 1300 outstanding  
 22 endorsements and we were just not servicing the book, our  
 23 customers.  
 24 We also had -- I was amazed that less than 30

40

1 percent of the employees had performance appraisals in  
 2 place.  
 3 Q. How many employees were there that you were  
 4 ultimately responsible for in the regional job?  
 5 A. There was approximately 80 in Cincinnati,  
 6 Columbus and Louisville. And there was maybe another 70 in  
 7 Cleveland and Indianapolis.  
 8 Q. Cleveland and Indianapolis also were part of  
 9 the Cincinnati region?  
 10 A. Yeah.  
 11 Q. They were kind of a notch up from Columbus and  
 12 Louisville?  
 13 A. They were full service branches. Columbus and  
 14 Louisville were part of the Cincinnati branch now.  
 15 Q. So there were branch managers in Cleveland and  
 16 Indianapolis?  
 17 A. Right.  
 18 Q. Not in Louisville and Columbus. Who is the top  
 19 guy in Louisville or Columbus, what job title is that?  
 20 A. Andy Bryant would be the top guy, he would be  
 21 called the production branch leader. And at the time it  
 22 was -- Anthony Washington was the production branch manager  
 23 of Columbus.  
 24 Q. How was the Cincinnati job different than the

41

1 Harrisburg job?

2 A. It was much wider in scope. You know, same

3 basic principles but you just have more people. You also

4 had -- you were managing branch managers at the time.

5 Q. You were managing guys who were in the position

6 you had held in Harrisburg?

7 A. That's correct, in addition to managing my own

8 branch.

9 Q. When you started in Cincinnati, who was your

10 immediate report?

11 A. Terry Cavanaugh.

12 Q. What was his position?

13 A. Northern zone manager.

14 Q. So he had moved from eastern zone at some point

15 to northern zone?

16 A. Uh-huh.

17 Q. Yes?

18 A. Yes.

19 Q. I take it you had a good working relationship

20 with Mr. Cavanaugh --

21 A. Yes.

22 Q. -- throughout your career?

23 A. Yes.

24 Q. Again, within that first kind of six month time

42

1 frame after you took the Cincinnati regional job, what was

2 your assessment of the people who were in place?

3 A. I thought we had good people but no systems in

4 place to implement the profit and growth that we would need.

5 There were, like I said, no performance

6 appraisal processes. There was no documentation of the

7 files. There was poor service. There was basically no

8 marketing systems in place at the time. It was kind of

9 catch-as-catch-can, go out and get the business and bring it

10 in.

11 And we were writing in all three branches some

12 very very unusual business that Chubb normally doesn't

13 write.

14 Q. Why was that happening, do you know?

15 A. I don't know. Louisville, I think the reason

16 was they started writing a lot of truckers because they had

17 tapped out the market. That was a full service branch

18 starting in about 1990.

19 Q. Did you have to hire a marketing manager and a

20 commercial lines manager right away in the Cincinnati job or

21 had those jobs filled before you got there?

22 A. The marketing role had been filled. I had to

23 hire a commercial lines manager.

24 Q. Who was in the marketing manager job?

43

1 A. Jeff Barton.

2 Q. Had you known Jeff before?

3 A. No.

4 Q. And you hired the commercial lines manager?

5 A. Yes.

6 Q. Who did you hire?

7 A. Dieter Korte.

8 Q. Was he from somewhere else in the Chubb

9 organization or did he come from outside?

10 A. He was from the Illinois branch, that is what

11 they called it back then.

12 Q. How many direct reports did you have in the

13 Cincinnati regional job?

14 A. About 18, and then that was cut down to 16

15 later when we deregionalized.

16 Q. When did that happen?

17 A. January of 2001.

18 Q. How did the deregionalization affect your

19 responsibilities?

20 A. I no longer had the branch managers in

21 Indianapolis and Cleveland reporting to me, and my

22 performance was based upon the Cincinnati results.

23 Q. Cincinnati, but including Louisville and

24 Columbus?

44

1 A. Correct.

2 Q. So the Indianapolis and Cleveland branch

3 managers at that point --

4 A. Reported to from time to time --

5 Q. Direct reports to zone?

6 A. Right.

7 Q. When did Mr. Szerlong become your immediate

8 superior?

9 A. I'm going to get on this but --

10 Q. As best you can remember.

11 MR. FREKING: Don't guess. If you don't know,

12 say you don't know.

13 MR. CROALL: I was waiting for Mr. Freking to

14 say, don't guess.

15 MR. FREKING: That's all right.

16 Q. If you don't remember, that's fine. If you can

17 put a parameter on it, that's fine.

18 MR. FREKING: Objection. Dave, I've got a

19 feeling your client probably already knows the answer

20 to these questions.

21 MR. CROALL: He probably does.

22 MR. FREKING: Probably not really appropriate

23 discovery. This is kind of a device for you to

24 obtain stuff you don't already know. It's kind of a

45

1 waste of time to sit here and talk about things you  
2 already know.  
3 MR. CROALL: I can ask Mr. Baillie what his  
4 recollection is. If you want to waste time making  
5 speeches about it --  
6 A. I reported to Tim for about two years. I guess.  
7 Q. Okay. Your employment ended in late August of  
8 '01, so roughly two years back from that, fall of '99?  
9 A. Give or take, yeah.  
10 Q. Had you known Mr. Szerlong before that?  
11 A. Yes.  
12 Q. How had you known him?  
13 A. I knew him through a position at the home  
14 office that he had as sort of the body broker back then. So  
15 I had interface with him then.  
16 And I knew Tim from just branch manager  
17 meetings. You know, most branch managers knew who each  
18 other were and would say hi.  
19 Q. Did you have any opportunity to work closely  
20 with Mr. Szerlong before he became your --  
21 A. No.  
22 Q. -- boss in the zone job?  
23 A. No.  
24 Q. So you didn't have really a working

46

1 relationship with him before then?  
2 A. No.  
3 Q. Within the first, say six months or so after he  
4 was in the zone manager job, what kind of working  
5 relationship did you establish with Mr. Szerlong?  
6 A. I think a very good one.  
7 Q. How often would you interact with him either on  
8 the phone or face to face?  
9 A. I would try to give Tim a call every six  
10 weeks. I would jot down notes of things that maybe I just  
11 wanted to run by him, you know, basically to stay in touch  
12 with him.  
13 He's pretty busy and so just to make sure that  
14 I initiated something every six weeks about. That was the  
15 goal.  
16 Q. You usually would do that by phone?  
17 A. Yes.  
18 Q. He was based in Chicago?  
19 A. Yes.  
20 Q. Would you go up to Chicago periodically to have  
21 a face to face with him?  
22 A. Occasionally.  
23 Q. Was that an annual thing? Couple times a year?  
24 A. If we had a meeting -- if he held a meeting

47

1 we'd go up there, or I would go up to see some zone  
2 managers. I would touch base with them maybe twice a year.  
3 Tim would come down to see me once a year.  
4 Q. You said before Mr. Szerlong was your zone  
5 manager it would have been Mr. Cavanaugh?  
6 A. Yes.  
7 Q. Would he also come down once a year to visit  
8 the Cincinnati branch?  
9 A. Yes. He would come maybe twice a year, maybe a  
10 little more.  
11 Q. Did you go up to Chicago to see him?  
12 A. Yes.  
13 Q. Again, periodically?  
14 A. Under the same circumstances.  
15 Q. If there was a meeting. Would you ever make a  
16 special trip to go meet with the zone manager in Chicago?  
17 A. When you say "special," what do you mean?  
18 Q. Just to go up to have a face to face with a  
19 zone manager, not in conjunction with some other already  
20 scheduled meeting?  
21 A. Yes, I think.  
22 Q. Is there anything specific?  
23 A. Probably a performance, you know, review, or a  
24 periodic thing of that nature.

48

1 Q. Again, during the first six months or so that  
2 Mr. Szerlong was your zone manager, any problems, concerns  
3 about that relationship?  
4 A. No, none.  
5 Q. You didn't have any reason to think Mr.  
6 Szerlong was a detractor of yours or was out to get you?  
7 A. No.  
8 Q. Was '99 your first full year as the Cincinnati  
9 regional manager?  
10 A. Yes.  
11 Q. How was the region's performance in '99?  
12 A. Not good from a profitability standpoint.  
13 Q. Is one measure that you guys use the ratio?  
14 A. Yeah, loss ratio. Loss ratio was horrible.  
15 Q. Is that for like every dollar in premium you  
16 take in is how much you pay out?  
17 A. Right.  
18 Q. Do you remember how much it was in '99?  
19 A. It was over 100.  
20 Q. Which is bad?  
21 A. Which is bad, right.  
22 Q. You were losing money?  
23 A. Yes.  
24 Q. You and Mr. Szerlong had conversations about

53

1 A. Yes.

2 Q. Would the same be true for Dieter Korte, would

3 he have regionwide responsibilities within the commercial

4 lines?

5 A. Yes.

6 Q. And, again, help me out, what does that mean in

7 terms a lawyer can understand?

8 A. That would mean overseeing his managers and

9 other branches to make sure that they're doing -- make sure

10 that they're writing the type of business that Chubb can

11 make a profit on. Mainly it would be authority levels.

12 Q. Okay.

13 A. And act again as the consultant for them.

14 Q. So he's got to set the levels at which people

15 below him can approve business?

16 A. Right.

17 Q. Certain levels it would have to go to him?

18 A. That's right.

19 Q. Or up to you? I mean, were there certain --

20 A. No, branch managers don't have underwriting

21 responsibility. If it gets above Dieter, it would have to

22 go to Tim's zone manager in that capacity.

23 Q. So there's some commercial lines guy at the

24 zonal level --

54

1 A. Right.

2 Q. -- that could sign off on something that's too

3 big for Dieter to approve?

4 A. That's right.

5 Q. And you said there were other direct reports.

6 Help me out with who those folks and what those functions

7 would be.

8 A. They would be the other underwriting office.

9 Not the claims, they didn't report to me, but the service

10 departments, loss control departments. And that's probably

11 it. Mostly underwriting departments.

12 Q. How did the region do in 2000? You said you

13 think there was like 8 or 9 percent growth?

14 A. Yeah. They did very well, you know, in all the

15 marketing and growth initiatives, but the loss ratio was

16 just awful.

17 Q. Do you remember what it was?

18 A. No. But I think we lost about 37 million in

19 the branch and the region wasn't great either.

20 Q. Loss ratio in the 135, 137 range?

21 A. I could provide you with that. It wasn't good.

22 We were still hit with the tail of the business and we were

23 running off quite a bit of distress business still and

24 trying to also get more rate.

55

1 Q. During 2000 how was your relationship with Mr.

2 Szerlong?

3 A. Very good.

4 Q. You continued to have the kind of every six

5 week target for touching base with him?

6 A. Yeah. Yeah. It's kind of a rule of thumb that

7 I used.

8 Q. Did he come down and visit once or twice?

9 A. I think he came down once.

10 Q. Any particular problems or issues that led to

11 the lack of profitability in 2000?

12 A. Oh, yes. You know, just bad business,

13 depressed.

14 MR. FREKING: Objection to the extent the

15 question has already been asked before.

16 MR. CROALL: I thought we talked about

17 before --

18 MR. FREKING: Same stuff.

19 Q. Was there a major issue about uninsured

20 motorists coverage in Ohio at that point?

21 A. Yes.

22 Q. Explain to me what that issue was.

23 A. What happened was that the Supreme Court of

24 Ohio made a ruling that if somebody got hurt in an

56

1 automobile accident that was uninsured, that they could go

2 against their employer, their employer's commercial

3 liability policy, to recover damages.

4 Q. How did that affect Chubb's business?

5 A. It affected it significantly because -- it

6 affected the entire insurance industry significantly because

7 basically what they had, now, was exposure that they did not

8 collect premium for.

9 Q. What, if anything, did you do to try and deal

10 with that problem?

11 A. I worked with the home office auto --

12 commercial auto folks. We put together a solution that we

13 thought would work for the uninsured motorists. Also worked

14 very closely with claims on how we're going to manage this.

15 Worked closely with underwriting on how we would manage it.

16 And actually put together a strategy session in

17 the home office where we had claims, underwriting, and legal

18 together where we came up with a strategy on how we're going

19 to manage Ohio UM, and worked closely with our legal

20 counsel.

21 Q. Legal counsel in the home office in New Jersey?

22 A. Correct.

23 Q. Would you say were you the leader in dealing

24 with that uninsured motorists issue or somebody else?

57

1 A. I would say I was the leader in conjunction  
2 with the home office automobile. I didn't have the  
3 technical -- I was sort of the coordinator more than  
4 anything else.

5 Q. Who at the home office was primarily  
6 responsible --

7 A. That would be Michelle Middleton. Before her  
8 was Kathy Langner. They had the ultimate responsibility for  
9 making a profit.

10 Q. At the start of 2001 you had a performance  
11 review meeting with Mr. Szerlong?

12 A. Yes.

13 Q. Tell me what you remember about that meeting.

14 A. I remember I was surprised of his evaluation on  
15 some of my characteristics and sort of shocked and surprised  
16 at some of the examples that he used.

17 Q. Do you remember any of the specifics of it? I  
18 know there's a memo that follows up on it, formal review  
19 document.

20 A. Yeah. He mentioned the financials which, you  
21 know, were not good.

22 But, you know, as I explained to him and Tim  
23 knew, it takes a long time to screw up a bulk of business.  
24 it takes an awful long time to correct it, too. Can't come

59

1 101 type stuff. But Tim didn't remember the specifics.

2 Q. What about the black and white? He said you  
3 were a black and white thinker, you didn't appreciate  
4 subtlety and didn't convey to your subordinates.

5 A. Tim had no examples or any specifics on that.

6 Q. Did you disagree with him on that? Did you  
7 tell him you didn't think that was true?

8 A. Yeah. I mean, I told him I think one of my  
9 strengths was my ability to see both sides of an argument.

10 Q. I think his overall rating -- I think this  
11 meeting is in February of 2001?

12 A. Right.

13 Q. Was met most?

14 A. Yes.

15 Q. Right?

16 A. Yes.

17 Q. Chubb rating system, as I understand it, which  
18 may not be correct, met most is just below met all?

19 A. That is correct.

20 Q. The next one up is exceeds some?

21 A. Right.

22 Q. Then clearly exceeds, I think?

23 A. Uh-huh.

24 Q. I forget what the very bottom one is. Not met?

58

1 in in '99, take some action, expect you to have a profit in  
2 2000.

3 The zone didn't do it, Chicago didn't do it,  
4 many, many other branches didn't do it either. So that was  
5 one piece.

6 But, you know, I understood that we needed to  
7 make a profit but actuarially it would have been impossible.

8 The second piece was, he talked about the  
9 leadership style and he mentioned -- said that it was black  
10 and white, and that he also mentioned an incident where I  
11 did not properly explain to the staff.

12 Q. Do you remember what incidents those were?

13 A. Yeah, I do. There was conversation that we had  
14 in -- I believe it was -- oh, come to me, it wasn't  
15 Cleveland. Toledo. It was a conversation we had in Toledo.

16 I had it with Tim, Jeff Barton, and Gary  
17 DeLong. He mentioned that my comments there were -- did not  
18 serve me well. That was the quote that he made.

19 Q. Do you remember what the conversation was  
20 about?

21 A. Tim didn't remember the conversation at all.  
22 But the only thing I remember about it was the discussion  
23 about that human resources and marketing are every manager's  
24 responsibility, basically Marketing 101, I mean Management

60

1 A. Right.

2 Q. You recognize that met most was not a very good  
3 rating for somebody in a regional manager position?

4 A. Right.

5 Q. You understood that Mr. Szerlong was conveying  
6 to you a lack of satisfaction with your performance in that  
7 regional manager role?

8 A. Well, I did ask the question, I said, does this  
9 mean that I'm failing in the job?

10 Q. What did he say?

11 A. He said no, no, you're not failing. Let's just  
12 get through this and we'll all play golf.

13 Q. How long was the meeting with Mr. Szerlong when  
14 he went over your performance?

15 A. I'd say it was about an hour and a half, two  
16 hours.

17 Q. Where was it?

18 A. It was in Chicago.

19 Q. So you went up there?

20 A. Yes.

21 Q. Specifically for the performance review?

22 A. Specifically for that but also to see some  
23 regional -- some zone managers.

24 Q. Some of the product line zonal managers?



61

1 A. Yes.  
 2 Q. Were any of your regional managers with you,  
 3 any of your product line regional guys?  
 4 A. No.  
 5 Q. Who else did you meet with on that trip, do you  
 6 recall?  
 7 A. I know I met with Dave Brosnan and I can't  
 8 recall the others but I do have it written down,  
 9 chicken-scratched down.  
 10 (Baillie Exhibit 1 was marked for  
 11 identification.)  
 12 Q. Mr. Baillie, the court reporter has handed you  
 13 Exhibit 1 for your deposition. I ask you -- before I ask  
 14 you to look at that specifically, let me ask you a broader  
 15 question.  
 16 In order to prepare for today, other than  
 17 consulting with Mr. Freking and Mr. Napier, did you do  
 18 anything? Did you look at any documents, talk to anybody  
 19 else?  
 20 A. I looked at documents such as these, yes.  
 21 Q. You looked at the documents you produced to us  
 22 in discovery?  
 23 A. Right.  
 24 Q. Looked at that whole stack of 650 pages.

62

1 whatever it was?  
 2 A. Not all of it, no.  
 3 Q. Just some of the performance-related stuff?  
 4 A. Yes.  
 5 Q. Did you look at Exhibit 1?  
 6 A. Uh-huh.  
 7 Q. That's a copy of a memo that Mr. Szerlong sent  
 8 you shortly after your February performance review, correct?  
 9 A. Right.  
 10 Q. Did it accurately summarize the discussion that  
 11 Mr. Szerlong had had with you ten days earlier or so?  
 12 (The record was read.)  
 13 A. It had a much harsher tone to it.  
 14 Q. The memo had a harsher tone --  
 15 A. Yes.  
 16 Q. -- than the conversation did?  
 17 A. Yes.  
 18 Q. Can you give me any examples of where you think  
 19 the memo was harsher than the face-to-face conversation?  
 20 A. It was just I came out of the meeting, you  
 21 know, again, asking him, well, you're giving me met most,  
 22 are you telling me I'm clearly failing? His reply back was  
 23 no.  
 24 And he said, you know, you just need to work on

63

1 some things. You're doing a great job in marketing and  
 2 you're doing a great job in growing the branch. These are  
 3 some things to work on. Then this memo was much harsher.  
 4 Q. Okay. Well, during the conversation, did he  
 5 tell you, like he says in the second paragraph of the memo,  
 6 in the regional job as a senior vice president, you are  
 7 measured against a different and tougher standard than in  
 8 your prior positions?  
 9 A. Uh-huh.  
 10 Q. Yes?  
 11 A. Yes.  
 12 MR. FREKING: Meaning did he say that in the  
 13 memo or the meeting?  
 14 Q. Did he say that in the meeting?  
 15 A. I think so.  
 16 Q. Did he say to you in the meeting, as he did in  
 17 this same paragraph, that everybody is being measured  
 18 against a tougher standard and future expectations were only  
 19 going to increase?  
 20 A. I believe so.  
 21 Q. The four bullet points that are kind of at the  
 22 bottom of the first page, carried over onto the second page,  
 23 are all of those things that he covered with you in the  
 24 face-to-face meeting as well?

64

1 A. Yes.  
 2 Q. As a specific example, that very first bullet  
 3 point, "Performance Management/Standards, I would rate the  
 4 professional staff in the Ohio Valley Region as the weakest  
 5 in the Zone." Is that something he told you in your  
 6 face-to-face meeting?  
 7 A. Yes.  
 8 Q. Is that something that you agreed with him  
 9 about? Disagreed?  
 10 A. I told him I had no way of measuring because I  
 11 don't know the staff of the other two regions, but if they  
 12 were the weakest, I must be a great manager to be able to  
 13 get the type of performance I get out of them.  
 14 Q. Is that what you said to Mr. Szerlong?  
 15 A. Yeah.  
 16 Q. Did he respond to that?  
 17 A. I can't recall.  
 18 Q. Talk to me a little bit about -- the memo talks  
 19 about performance issues with a Michael Whitman. Who is he?  
 20 A. Michael Whitman was my property marine manager.  
 21 Q. He had a performance problem?  
 22 A. Yes.  
 23 Q. Inadequate performance?  
 24 A. Yeah. He was unprofitable and growth was



65

1 lacking and really didn't show a lot of good signs of  
2 leadership.

3 Q. What had you done at the point of the February  
4 meeting with Mr. Szerlong?

5 A. I had put him, prior to the meeting, on a  
6 performance appraisal -- I mean a performance improvement  
7 plan for the year 2000.

8 Q. As a result of his performance in the year 2000  
9 or --

10 A. As a result of his performance in the year  
11 1999.

12 Q. How had he done in the performance improvement  
13 plan for 2000?

14 A. He had double digit growth and made a profit. I  
15 believe probably the only property manager in the  
16 whole zone that both made a profit and grew.

17 Q. Did you feel like he had turned it around?

18 A. Yeah. He certainly turned it around, the  
19 results, in Cincinnati.

20 The managers in Cleveland and Indianapolis were  
21 more pleased with his performance but we were very leery  
22 because he had problems with performance, because it would  
23 go up and down.

24 So he worked him off the performance review

66

1 process and -- but basically by about April or May of 2001.  
2 while he was doing well in the branch, he was again  
3 neglecting his duties on the regional front, so I had to  
4 take him out of the job.

5 Q. So you moved him out of the regional job and  
6 effectively demoted him?

7 A. Yeah, put him in a technical job.

8 Q. So within a few months of this memo where Mr.  
9 Szerlong says Whitman is currently unable to perform the  
10 regional aspect of his job, you reached that same  
11 conclusion?

12 A. Yes.

13 Q. Says in -- the memo says in that same  
14 paragraph, Mr. Szerlong reviewed with you a handful of  
15 managers through the region that we simply must get a higher  
16 level of performance from.

17 Do you remember him reviewing with you others  
18 who he felt should be performing at a higher level?

19 A. He mentioned a commercial manager up in  
20 Cleveland.

21 Q. Who was that?

22 A. It will come to me. I can't recall at this  
23 time but a commercial manager up in Cleveland.

24 Q. Is he the only one you remember or were there

67

1 others?

2 A. He's the only one I remember.

3 Q. Were there others you just don't remember or  
4 you think there was only one you and Mr. Szerlong discussed  
5 in addition to Mr. Whitman?

6 A. I don't recall.

7 Q. I think you mentioned that Mr. Szerlong covered  
8 with you in your face-to-face meeting your role as a  
9 regional leader?

10 A. Correct.

11 Q. Not just a branch manager, right?

12 A. Uh-huh.

13 Q. Yes?

14 A. Yes.

15 Q. These issues about leadership, did he say to  
16 you in the face-to-face meeting like he said in the memo,  
17 that while leadership is difficult to measure it's critical  
18 to your success?

19 A. Yes.

20 Q. Did he cover with you in the face-to-face  
21 meeting his view that you had a tendency to argue an extreme  
22 position on a point and that was perceived as inflexible?

23 A. No, not to my recollection.

24 Q. The next paragraph of the memo he says the

68

1 feedback he received on your management meetings in  
2 Cincinnati has also sometimes been unfavorable.

3 Did he tell you that in the face-to-face  
4 meeting?

5 A. No. He did mention one meeting after our  
6 national meeting that he thought I should have expounded  
7 upon more.

8 Q. Do you recall what meeting that was?

9 A. Yes.

10 Q. What was it?

11 A. It was a meeting -- we had a national meeting  
12 and they indicated that they were going to reregionalize the  
13 branch, the regional managers' jobs, but they didn't know  
14 what they were going to do with the regional managers'  
15 positions at this time.

16 Q. What did Mr. Szerlong say he thought you should  
17 have done?

18 A. He thought I should have discussed it more with  
19 the group.

20 Q. That would have affected a lot of your direct  
21 reports, right?

22 A. Right.

23 Q. Did you agree with Mr. Szerlong, maybe you  
24 should have talked about that more to --

85

1 upgrade the quality of the agency plans in Louisville?  
 2 A. At the time of this memo, no. I would say that  
 3 is correct, Louisville had to upgrade it.  
 4 Q. So did you make efforts after you got this memo  
 5 to upgrade?  
 6 A. Made efforts before and after.  
 7 Q. Okay. Help me out with what those efforts  
 8 were. Just getting Jeff and you involved?  
 9 A. Yeah. Basically I went down, did a couple  
 10 myself of them over the years, reviewed the ones that they  
 11 did, gave them feedback on the performance review, basically  
 12 explained to them that this was a development area that he  
 13 had to do, and tried to coach him in how to do it. He was  
 14 struggling with it, though, I would say that.  
 15 And, you know, also on a semiannual review,  
 16 documented that was the area he had to concentrate the most  
 17 on.  
 18 Q. Page 2 of Exhibit 2 is kind of a separate  
 19 memo. But as I understand, it was attached to the first  
 20 page, "Development/performance Priorities" that Mr. Szerlong  
 21 gave you.  
 22 Again, were those five items consistent with  
 23 what he told you in your face-to-face meeting in early May?  
 24 A. The first three.

86

1 Q. He covered each of the first three in your  
 2 face-to-face on May 2nd --  
 3 A. Yes.  
 4 Q. Not 4 and 5, is that your testimony?  
 5 A. I can't recall.  
 6 Q. But, again, you got a copy of this, correct?  
 7 A. Yes. Yes, I did.  
 8 Q. Okay. Do you remember following up with Mr.  
 9 Szerlong, other than what you've already said about asking  
 10 him about clarification with the Louisville and Columbus  
 11 issues after you got Exhibit 2?  
 12 A. Yeah, I usually -- I can't recall if I did it  
 13 after this memo, but I usually would call him after I got  
 14 these two memos. Pretty sure I called him and asked for  
 15 clarification.  
 16 Q. Do you recall anything specific about those  
 17 discussions?  
 18 A. No. It was a lot more of, you know, this type  
 19 of communication, just verbally.  
 20 Q. Paragraph 3 in Exhibit 2 references a brief  
 21 memo further discussing regional roles and I think that's  
 22 Exhibit 3?  
 23 A. Exhibit 3.  
 24 Q. Would you take a look at that?

87

1 A. Sure.  
 2 Q. Tell me if you got that around this same time.  
 3 A. Yes, I did.  
 4 Q. Did you have any discussion with Mr. Szerlong  
 5 about what his view was of the regional role?  
 6 A. Yes. Yes, several.  
 7 Q. Do you recall anything specific about those  
 8 follow-up discussions?  
 9 A. No.  
 10 Q. Do you recall anything, in general, about --  
 11 just generally talked about the same topics that are on this  
 12 memo?  
 13 A. I would think, yeah.  
 14 (A recess was taken from 11:27 to 11:39.)  
 15 Q. In May 2001, was there a national meeting of  
 16 some kind in Bermuda?  
 17 A. Yeah, captivated meeting.  
 18 Q. MVI meeting?  
 19 A. Yes.  
 20 Q. Where was it?  
 21 A. Jamaica.  
 22 Q. One of those islands. You attended that?  
 23 A. Yes.  
 24 Q. Was there some incident on the beach with you

88

1 getting in a shouting match with your wife?  
 2 MR. FREKING: Objection.  
 3 A. Tim did mention that to me. The only thing I  
 4 can think of is I threw my money clip to her to catch in the  
 5 ocean. She dropped it, it fell in the ocean. We were  
 6 scrambling around to get it. As far as a shouting match --  
 7 Q. Did you yell at her over that?  
 8 MR. FREKING: Objection to relevance again.  
 9 We'll object to this entire line of questioning.  
 10 Q. You can go ahead and answer.  
 11 MR. FREKING: You can go ahead and answer.  
 12 A. There was -- what was that?  
 13 MR. CROALL: You can answer. He's making his  
 14 objection for the record. There's no judge here to  
 15 rule on the objection.  
 16 A. Sure, I'll answer. I told my wife, Tim called  
 17 and said there was a shouting match in the ocean. She said,  
 18 what? She said, it's kind of funny. I was blaming her for  
 19 it, it was obviously my fault.  
 20 Q. My question to you --  
 21 A. No.  
 22 Q. -- was, did you shout at her?  
 23 A. No.  
 24 Q. So if there are other people that said you

93

1 business growth which was outstanding.

2 Q. What contact did you have with Mr. Szerlong  
3 between the conversations you already testified about when  
4 you called him about these memos and his meeting with you  
5 when you were terminated?

6 A. I don't recall any specific conversations.

7 Q. Any face-to-face meetings between the May 2nd  
8 meeting and the late August meeting?

9 A. Not that I recall.

10 Q. Just phone contact periodically?

11 A. Yeah. Basically we talked a couple times. He  
12 set up the August meeting, so he called prior to the August  
13 meeting.

14 Q. How long before?

15 A. Anywhere from two weeks to a month. I couldn't  
16 tell you for sure.

17 Q. He scheduled that, I think it's August 24th?

18 A. That is correct.

19 Q. He came to Cincinnati?

20 A. Yes.

21 Q. Met with you in the Cincinnati office? Yes?

22 A. Yes.

23 Q. Tell me what happened at that meeting.

24 A. At the meeting in the Cincinnati office?

95

1 of this then. He said, no. Get a cab for him.

2 Q. How long was the meeting?

3 A. I would say it was about 20 minutes. Oh, I do  
4 recall some other things he said.

5 Q. What?

6 A. He said, I am recommending the most aggressive  
7 package for you because you deserve it, which he said, I  
8 know that doesn't seem like a big thing right now in view of  
9 being terminated.

10 Q. You understood him to be talking about a  
11 severance package?

12 A. Right.

13 Q. Anything else you remember about the  
14 conversation with Mr. Szerlong in August?

15 A. Not that I recall at this time.

16 Q. Okay. He was professional and businesslike?

17 A. Yes. Yes, he was.

18 Q. And you were professional and businesslike as  
19 well?

20 A. Yes. We shook hands afterwards.

21 Q. How long were you in the office after you  
22 finished talking to Mr. Szerlong?

23 A. I don't know, maybe half hour, hour.

24 Q. You talked to a couple of your direct reports?

94

1 Q. Yes.

2 A. Or the meeting for the day?

3 Q. Well, tell me for the day.

4 A. We met with a couple agents for breakfast.  
5 Then we met with a couple other agents for lunch. And then  
6 he went to some of the various departments.

7 And then about maybe 2:30 -- well, I don't know  
8 when it was, maybe 1:30, 2:00, came into the office and  
9 said, your financials are great, you're one of the best guys  
10 we have with agents and customers, but I need to make a  
11 change.

12 Q. What else did he say or what did you say?

13 A. He said, I'm looking for better leadership. I  
14 said, how is it possible that I'm not being an outstanding  
15 leader given the financials that we have, given the fact  
16 that all my goals and the balance scorecard are being  
17 carried out superiorly, and feedback I've always gotten  
18 from my folks have been 360, feedback has always been high,  
19 and it's inconsistent with my evaluations over the last 26  
20 years and my performance.

21 Q. What did he say?

22 A. Well, it's just my opinion.

23 Q. Okay.

24 A. I said, I guess I'm not going to talk you out

96

1 A. Yes. I talked to --

2 Q. Jeff Barton? Jim Lash?

3 A. No. I talked to Diane Haggard and Becky  
4 Emerson and Tim Dadik, I believe. Those would be the three.

5 Q. What did you tell them?

6 A. I had been terminated.

7 Q. Did you give any explanation?

8 A. Yeah. I gave the same explanation Tim said. I  
9 discussed it a little with Diane Haggard. I said, he's -- I  
10 said, I guess you know. I figured she knew. I guess you  
11 know I've been terminated. She goes, no, I didn't know.

12 Tim said he was going to have a serious talk with you but I  
13 didn't know that. Man, he said I wasn't performing well on  
14 leadership. Is that true? She said no.

15 Q. Where was this conversation with Miss Haggard?

16 A. In her office.

17 Q. How long did you talk to her?

18 A. Not long. Couple minutes. Then with --

19 Q. Anything else you remember about the  
20 conversation with Miss Haggard?

21 A. No, not that I recall right now.

22 Q. Did you believe her when she said she didn't  
23 know?

24 MR. FREKING: At that time?

105

1 group. Then him and I went out to dinner.  
 2 Q. Do you recall anything about your discussion  
 3 with him?  
 4 A. The only thing I can recall -- you know, we  
 5 discussed a wide myriad of things over the night, but as my  
 6 custom, I always ask, anything you think I can be doing  
 7 better or should be doing differently.  
 8 Q. What did he say?  
 9 A. No, keep doing what you're doing, you got it on  
 10 track.  
 11 Q. His first visit had you been --  
 12 A. Wasn't that long.  
 13 Q. -- Cincinnati manager for a year yet?  
 14 A. No.  
 15 Q. Less than a year?  
 16 A. Yes, less than a year. Much less than a year.  
 17 Q. '98?  
 18 A. Yeah.  
 19 Q. Then did he make another visit in 2000?  
 20 A. Yeah, that would be about right.  
 21 Q. Do you remember anything about the 2000 visit?  
 22 A. Yeah. The only thing I remember about that is  
 23 we went to dinner with a client and an agent.  
 24 Q. Who was that?

106

1 A. Went with folks from Schiff Kreidler-Shell and  
 2 with a customer from Monarch Construction, outstanding  
 3 meeting. And Tom referred to it in subsequent presentations  
 4 he gave to the zone.  
 5 Q. Referring to it in a positive way?  
 6 A. Yes.  
 7 Q. Did you ever hear Mr. Motamed say anything  
 8 negative about you?  
 9 A. Never.  
 10 Q. Other than the conversations you've already  
 11 testified about with Mr. Szerlong, did you ever hear  
 12 secondhand from anybody that Mr. Motamed had said anything  
 13 negative about you?  
 14 A. Never.  
 15 Q. Did you ever hear Mr. Szerlong say anything  
 16 negative about your age?  
 17 A. No.  
 18 Q. Did you ever see any document that had anything  
 19 negative or derogatory about your age?  
 20 A. No.  
 21 Q. Did you ever see any document at Chubb that had  
 22 anything negative or derogatory about any employee's age or  
 23 ages in general?  
 24 A. No.

107

1 Q. Did you ever hear anybody in upper level  
 2 management at Chubb, which I would define as anybody above  
 3 you, say anything negative, either hear it yourself or hear  
 4 secondhand, that somebody at that level in the company had  
 5 said anything negative about any employee's age or  
 6 employees' ages in general?  
 7 A. Not that I recall.  
 8 Q. Do you think your separation had something to  
 9 do with your age?  
 10 A. Yes.  
 11 MR. FREKING: Objection.  
 12 MR. CROALL: I assume you're going to let him  
 13 answer anyway.  
 14 MR. FREKING: Uh-huh.  
 15 Q. Why do you think that?  
 16 A. I'm not a lawyer.  
 17 Q. I understand.  
 18 A. Having the best profit and second best growth  
 19 in the zone and being one of the oldest managers, having  
 20 performance better than the other managers, and being  
 21 replaced by a younger person, you know, leads me to believe.  
 22 Q. When you're talking about having the best  
 23 profitability and growth, you're talking about 2001?  
 24 A. Correct.

108

1 Q. Up until the time of your separation?  
 2 A. Right.  
 3 Q. I assume those numbers were circulated monthly  
 4 or was it monthly or quarterly or --  
 5 A. Monthly.  
 6 Q. Everybody got everybody's numbers?  
 7 A. Yes.  
 8 Q. You could see premiums and profitability and --  
 9 A. Right.  
 10 Q. -- all that stuff?  
 11 A. Tim would share it with us.  
 12 Q. You could see it for your own office and each  
 13 branch within your office, your region and everybody else's  
 14 regions. Would it be broken down office by office for other  
 15 regions or just --  
 16 A. No. No. Just really the zone. I wouldn't  
 17 really see anybody else's. You could look at it if you  
 18 wanted to.  
 19 I knew what the corporate numbers were. But,  
 20 basically, the only thing that was given to me was the  
 21 zones' numbers.  
 22 Q. Would it be broken down by region within the  
 23 zone?  
 24 A. Sure.

109

1 Q. So that's how you knew you were, in your view,  
2 the best in terms of profitability within the zone?  
3 A. Yeah. Well, from a region, not a branch  
4 standpoint.  
5 Q. Any other reason you think your age had  
6 something to do with your separation?  
7 MR. FREKING: Objection to the extent it calls  
8 for some kind of legal analysis.  
9 MR. CROALL: I'm not asking for that.  
10 Q. I'm asking why you think.  
11 A. At this time I can't recall, just the fact that  
12 I was either the oldest or one of the oldest and my  
13 performance, you know, as Tim admitted to me, you're  
14 financials are outstanding.  
15 Q. As I understand your lawsuit, one of the claims  
16 is your separation had something to do with keeping you from  
17 vesting in further benefits. Is that consistent with your  
18 understanding? I understand you're not a lawyer.  
19 A. I don't remember the exact wording.  
20 Q. Well, let me ask you this. In connection with  
21 any of your discussions relating to your performance or your  
22 separation, did Mr. Szerlong ever say anything about him or  
23 the company not wanting you to vest in further benefits?  
24 A. No.

110

1 Q. Did you ever see any document that said  
2 anything about the company or any individual in upper level  
3 management wanting to keep you from vesting in further  
4 benefits?  
5 A. No.  
6 Q. Do you think that your separation had anything  
7 to do with that, with keeping you from vesting in further  
8 benefits?  
9 MR. FREKING: Objection.  
10 A. I couldn't read their mind. I wouldn't know.  
11 Q. After your separation, as I understand it, you  
12 already had a vacation scheduled?  
13 A. Yes.  
14 Q. Like the next week?  
15 A. The next day.  
16 Q. You left for Scotland, Europe, somewhere?  
17 A. Scotland.  
18 Q. How long were you there?  
19 A. A week.  
20 Q. You and your wife?  
21 A. No, just myself.  
22 Q. Just you. Golf trip?  
23 A. Golf trip and kind of to spread my father's  
24 ashes in his homeland.

111

1 Q. Anybody else travel with you or just literally  
2 go by yourself?  
3 A. It was with a group of I think seven. Eight.  
4 eight in the group.  
5 Q. Eight guys?  
6 A. Uh-huh.  
7 Q. Friends?  
8 A. Some people I just met.  
9 Q. Some of them you knew better than others?  
10 A. Some I didn't know at all.  
11 Q. Was it a group from Ivy Hills?  
12 A. Yes.  
13 Q. All members at Ivy Hills?  
14 A. No.  
15 Q. Some friends of members?  
16 A. Right.  
17 Q. You took the trip? Yes?  
18 A. Yeah.  
19 Q. Golfed every day?  
20 A. Yes.  
21 Q. Play a different course every day?  
22 A. Yes.  
23 Q. Some package put together by a travel agent?  
24 A. Correct.

112

1 Q. Any contact with home during that week? Did  
2 you call home every day, every couple days?  
3 A. Yes.  
4 Q. Any discussion with your wife about the  
5 separation --  
6 A. Yes.  
7 Q. -- from Chubb? Tell me about those  
8 discussions.  
9 A. She would just ask me how I was doing, I would  
10 ask her how she's doing.  
11 Q. How were you both doing?  
12 A. Not real well.  
13 Q. Any contact with anybody from Chubb during that  
14 time? Did you call anybody, anybody call you?  
15 A. Not that I recall.  
16 Q. Do you know whether your wife had any contact  
17 with anybody from Chubb while you were gone?  
18 A. She probably did but I don't know. I think she  
19 probably did, yeah.  
20 Q. Before you left, other than what you've already  
21 testified about, did you have any other discussions with  
22 anybody from Chubb?  
23 A. Not that I recall.  
24 Q. How about after you got back?

117

1 said, yes, Tim told us that, too.

2 I said, well, this doesn't sound like the most  
3 aggressive package. I'm really getting hurt on my pension.  
4 She said, well, it's not the most aggressive package but I'm  
5 sure your lawyer will have other things that they want to  
6 include in the package and we're certainly willing to  
7 negotiate.

8 Q. What else did you say?

9 A. That was it. I understood they didn't want to  
10 talk to me, they wanted to talk to a lawyer, so that ended  
11 the conversation.

12 Q. How long did you talk to Ms. Hurley?

13 A. I couldn't tell you. Maybe 20 minutes, maybe  
14 10 minutes, maybe 5 minutes, maybe a half an hour, I don't  
15 recall.

16 Q. Is that the only conversation you had with her?

17 A. No. One of the things she said -- I had other  
18 conversations with her.

19 Q. Do you remember something else she said in that  
20 first conversation?

21 A. Well, I can't remember which conversation it  
22 may have been. Oh, I did ask her, I said, as far as what do  
23 you call it, the confidentiality statement or signing the  
24 document, I said I would need more time on that because I

119

1 Q. Never had a face-to-face?

2 A. No.

3 Q. How many telephone conversations did you  
4 actually have with her?

5 A. Two or three.

6 Q. Do you recall anything else about any of the  
7 phone conversations with Ms. Hurley?

8 A. No. I was -- had some confusion because they  
9 kept sending me documents that said my separation was like  
10 October 15th or 18th, whatever, and some that said October  
11 1st. So I needed to find out which one it was for, I guess,  
12 health benefits and unemployment benefits.

13 Q. Was she able to straighten that out?

14 A. Yes.

15 Q. What was --

16 A. It was October 1st.

17 Q. Final termination?

18 A. There was some confusion, I guess the signals  
19 got crossed. Our folks said it was two weeks later, the  
20 people in the home office sent me correspondence that said  
21 it was two weeks later, but I understood it was October 1st.

22 Q. When you say "our people," you're talking about  
23 Cincinnati local people?

24 A. Cincinnati local people, yeah. Diane.

118

1 got a week's vacation and I got those two weeks at Wharton,  
2 so could I have two extra weeks there. Then she said, well,  
3 maybe we'll give you two extra weeks on your employment. I  
4 said, well, that would be nice. She said, I'll okay it with  
5 him. I'm sure Tim will say it's okay. We'll extend your  
6 employment to October -- whatever, two weeks after October  
7 1st.

8 Q. You had understood from the beginning October  
9 1st --

10 A. Absolutely.

11 Q. -- was going to be your last day?

12 A. Absolutely.

13 Q. This conversation you're testifying about with  
14 Ms. Hurley would have been after you received the document  
15 from her?

16 A. I believe it was -- may have been before, may  
17 have been after, I can't recall.

18 Q. I guess my question was, if it was before, how  
19 would you know you needed extra time?

20 A. Either somebody communicated to me verbally or  
21 I may have had the document. It's possible. It's possible.

22 Q. I assume all these contacts with Ms. Hurley are  
23 by telephone?

24 A. Yes.

120

1 Q. When you testified a few moments ago that  
2 during your first conversation with Ms. Hurley you said it  
3 doesn't sound like the most aggressive package, what basis  
4 did you have for making a judgment about how aggressive the  
5 package was?

6 A. Well, I think it was pretty much known in Chubb  
7 that they do some things on the side, particularly with  
8 pension.

9 Q. How did you have any knowledge of what had been  
10 done with others in terms of separation packages?

11 A. Well, a good friend, Brian Lynch, got offered a  
12 separation package.

13 Q. Did he talk to you about the details?

14 A. No.

15 Q. Do you know what his package was, how it  
16 compared to the one you were offered?

17 A. Yeah. I know that he got boosted up for  
18 pension or something. But details, no, I wouldn't know the  
19 details.

20 It was very widely known at Chubb, it wasn't a  
21 secret or anything.

22 Q. I guess I'm trying to find out how is it widely  
23 known? Who had you heard it from?

24 A. More hearsay than anything else.

125

1 Christmas party, where we would talk about how we should  
 2 handle that, let's limit it to two tickets per person.  
 3 Q. Did you tell people it was not acceptable to  
 4 give tickets to other people or get tickets from other  
 5 people?  
 6 A. No.  
 7 Q. Did you designate anybody as having  
 8 responsibility for keeping an eye on if anybody got impaired  
 9 to make sure they didn't drive themselves?  
 10 A. We made an announcement we would pay for any  
 11 cabs or hotel room if they think they had too much.  
 12 Q. During the time you were Cincinnati regional  
 13 manager?  
 14 A. Right.  
 15 Q. Did that ever happen? Did anybody take  
 16 advantage of the offer to pay for a ride or a hotel room?  
 17 A. Nobody took advantage of it to my knowledge.  
 18 They may have with the human resource manager.  
 19 Q. Once you had had the conversations with Ms.  
 20 Hurley that you testified about before lunch, did you have  
 21 any further contact with anybody at Chubb about the content  
 22 of your severance package?  
 23 MR. FREKING: You mean him individually, not  
 24 through his lawyer?

126

1 MR. CROALL: Correct.  
 2 A. Not that I recall.  
 3 Q. That's really the question.  
 4 A. Yeah.  
 5 Q. From that point forward were all the  
 6 discussions that took place on your behalf through counsel?  
 7 A. I assume.  
 8 Q. You didn't have any yourself?  
 9 A. With?  
 10 Q. With anybody at Chubb about the severance  
 11 package?  
 12 A. Not that I recall, no.  
 13 Q. You didn't instruct anybody, other than  
 14 somebody from Mr. Freking's office, to contact Chubb on your  
 15 behalf, did you?  
 16 A. Contact Chubb on my behalf. I don't understand  
 17 the question.  
 18 Q. Did you ask your next door neighbor or your  
 19 wife or your best friend from college to call Chubb and talk  
 20 about your severance package?  
 21 A. Oh, no.  
 22 Q. Did you ask anybody other than --  
 23 A. No.  
 24 Q. -- somebody from Mr. Freking's office to talk

127

1 to Chubb about your severance package?  
 2 A. No.  
 3 Q. So as far as you know, from your last  
 4 conversation with Ms. Hurley up until now, the only  
 5 discussions that occurred were between either Mr. Freking or  
 6 somebody else from his office and counsel at Chubb?  
 7 A. To the best of my recollection.  
 8 Q. Okay. During your -- during the course of your  
 9 employment at Chubb, you got stock options from time to  
 10 time, correct?  
 11 A. Correct.  
 12 Q. And those stock options were pursuant to some  
 13 plan? There is a formal stock openings plan at Chubb; is  
 14 that right?  
 15 A. That's correct.  
 16 Q. You were awarded stock pursuant to that plan  
 17 and there was a vesting schedule?  
 18 A. Correct.  
 19 Q. And the stock options had a price attached to  
 20 them?  
 21 A. Correct.  
 22 Q. A per share option price?  
 23 A. Right.  
 24 Q. That would fluctuate depending on when the

128

1 options were issued?  
 2 A. Correct.  
 3 Q. I think you exercised your option on some  
 4 shares; is that right?  
 5 A. Yes, over the years.  
 6 Q. You had a lot of shares that you had vested  
 7 stock options that you didn't exercise, correct?  
 8 A. Correct.  
 9 Q. Why didn't you exercise those options before  
 10 your termination date?  
 11 A. Didn't occur to me, with everything that was on  
 12 my mind. The stock was low.  
 13 Q. Do you recall what the stock price was from  
 14 late August to October 1?  
 15 A. No.  
 16 Q. Because you had those options, did you kind of  
 17 routinely monitor the Chubb stock price?  
 18 A. Oh, yeah.  
 19 Q. Did you stop doing that after your last --  
 20 A. No.  
 21 Q. -- day of employment?  
 22 A. No. Still do it, daily.  
 23 Q. You did it daily from August until October?  
 24 A. Oh, yeah.



153

1 A. I can't recall. He certainly talked about each  
2 one.  
3 Q. Did you think that was a fair review by Mr.  
4 Cavanaugh?  
5 A. Yeah, I think so.  
6 Q. I guess this is on a 5 point scale, 5 being the  
7 best?  
8 A. That's correct.  
9 Q. 0 or 1 being the low end?  
10 A. Right.  
11 (A recess was taken from 2:10 to 2:15.)  
12 (Baillie Exhibits 9 and 10 were marked for  
13 identification.)  
14 Q. Mr. Baillie, you've got Exhibits 9 and 10 in  
15 front of you.  
16 A. Correct.  
17 Q. Exhibit 9 is a letter from Sy Green to you, it  
18 looks like after a visit.  
19 A. Uh-huh. Yes.  
20 Q. How often did he come in?  
21 A. That was the only time he had come in.  
22 Q. Okay. Help me out where he fits into the  
23 structure. He's not a zone guy. He's higher than a zone  
24 guy?

154

1 A. Yes. At the time I believe he was Tim's boss.  
2 He was in charge of field operations.  
3 Q. If you look at that third paragraph where he  
4 says, "Thanks very much for arranging productive visits for  
5 me in Columbus, Cincinnati and Louisville."  
6 Then he references a discussion that you and he  
7 apparently had about continuing to push for very strong  
8 players and need to develop more world class performers and  
9 fewer average performers.  
10 Did he talk with you about that?  
11 A. Not to my recollection. He was big on getting  
12 maximum authority. He didn't think the field had enough  
13 authority, so we need to continue to booster up the  
14 technical ability of the field to get more authority at the  
15 point of sale, underwriting positions.  
16 Q. When you're talking about authority --  
17 A. Underwriting.  
18 Q. The amount of dollars that somebody could  
19 approve?  
20 A. That's right. Exposure in dollars.  
21 Q. Do you remember, in the last few years you were  
22 with Chubb people at the highest executive levels in the  
23 company talking about what Mr. Green says in this letter,  
24 about pushing for getting the best people in the right

155

1 positions and getting top performance and not settling for  
2 just average performance?  
3 A. Oh, sure. Yes.  
4 Q. Did you try to implement that in the Cincinnati  
5 region?  
6 A. Yes.  
7 Q. Did you terminate any employees' employment in  
8 the Cincinnati region during the time you were regional  
9 manager?  
10 MR. FREKING: Objection as to relevance. You  
11 can go ahead and answer.  
12 A. Yes.  
13 Q. Do you recall how many and what the  
14 circumstances were?  
15 A. We terminated a loss control rep for falsifying  
16 a report.  
17 Q. Was that here in Cincinnati?  
18 A. Yes. It was termination of some of the SCRs  
19 that were on profit improvement plans. And we demoted a  
20 couple of people and then some people just left.  
21 Q. Voluntarily left?  
22 A. Voluntarily left.  
23 Q. Knowing they were having some performance  
24 issues?

156

1 A. Right.  
2 Q. In any of the employment decisions you made as  
3 branch manager, did you ever consider age as a reason for  
4 taking some adverse employment action against somebody?  
5 A. No.  
6 Q. Did anybody higher than you at Chubb ever tell  
7 you to take some employment action based on somebody's age?  
8 A. No.  
9 Q. Take a look at Exhibit 10. Tell me what that  
10 is.  
11 A. That's a pre-year business plan, sort of  
12 summarizing what the focus should be for the year.  
13 Q. So it's in fourth quarter '99 looking forward  
14 to the year 2000?  
15 A. Correct.  
16 Q. You say down there at the bottom of the first  
17 page that returning to profitability is the number one  
18 priority.  
19 A. Correct.  
20 Q. That's one that didn't happen, right?  
21 A. Correct. Well, it did happen but not in 2000.  
22 Q. Didn't happen till 2001?  
23 A. Well, actually it was happening at the second  
24 part of the year. The numbers were starting to get real

157

1 good during the second half of the year.  
 2 Q. Do you remember what they were for the full  
 3 year?  
 4 A. Yeah. They weren't good.  
 5 Q. Do you remember what they were?  
 6 A. No. I remember we lost about 40 million.  
 7 Q. Looking at the second page of Exhibit 10, under  
 8 "Staff Development," that last sentence, you wrote this  
 9 right? You wrote this document?  
 10 A. Yes, I did.  
 11 Q. Input from anybody else?  
 12 A. Not direct input but obviously discussions with  
 13 a lot of people including Tim, including corporate  
 14 direction.  
 15 It was kind of, you take the corporate  
 16 direction, you take the zone direction, and then you take,  
 17 you know, what things you need to work on.  
 18 Q. Apply it to your region?  
 19 A. Yeah. That's right.  
 20 Q. "Our managers' ability to develop staff will be  
 21 an even larger percentage of their performance rating in the  
 22 year 2000."  
 23 Is that something that came from corporate.  
 24 from zone, from yourself?

158

1 A. No. That's a personal pet peeve and focus of  
 2 mine, staff development, always has been.  
 3 Q. Was it your understanding that emphasis was  
 4 consistent with corporate direction as well?  
 5 A. Yes.  
 6 Q. Looking down at the "Summary" paragraph at the  
 7 very end, you said, "We have the best infrastructure, staff,  
 8 agency plant and account relationships in the industry."  
 9 First of all, help me out. What do you mean by  
 10 "agency plant"?  
 11 A. Our independent agents that we do business  
 12 with.  
 13 Q. Just the system of agents that you've got out  
 14 there --  
 15 A. That's right.  
 16 Q. -- selling Chubb product?  
 17 A. Uh-huh. We were pretty much dominating the  
 18 marketplace back then.  
 19 Q. In this region or nationally?  
 20 A. Pretty much this region.  
 21 Q. Who were the big competitors in this region?  
 22 A. CNA, Travelers, Royal, Cincinnati Financial.  
 23 Q. Do you keep track of market shares, is that  
 24 something you can estimate or --

159

1 A. We have Best reports by state.  
 2 Q. That's a company that does that?  
 3 A. Right.  
 4 Q. You don't do any internal measurement?  
 5 A. No. Basically what you do is you take a look  
 6 at what the agents have and see when your penetration is  
 7 there and take a look at the incoming, because they pretty  
 8 much market their whole book, and then what you're  
 9 getting -- what you get -- what you want and what you get  
 10 based on what you want.  
 11 Q. So you would ask the people you deal with at  
 12 Schiff Kreidler-Shell, just to take an example --  
 13 A. Yeah.  
 14 Q. -- of how much of your total business is Chubb  
 15 business?  
 16 A. Right.  
 17 Q. Get a sense for your market share from that?  
 18 A. Yeah. It was more -- more from a new business  
 19 and retention standpoint where we were dominating the market  
 20 as opposed to market share. We have a very small niche.  
 21 (Baillie Exhibit 11 was marked for  
 22 identification.)  
 23 Q. Mr. Baillie, take a look at Exhibit 11.  
 24 That's a performance review, looks like it started in

160

1 December of '99 and then the final approval is in early 2000  
 2 by you and Mr. Szerlong, right?  
 3 A. Correct.  
 4 Q. Now, is this the first performance review that  
 5 Mr. Szerlong would have done for you?  
 6 A. Yes.  
 7 Q. As I read it, the overall score is exceeds  
 8 some?  
 9 A. Right.  
 10 Q. Which I think you testified is the score you  
 11 usually got?  
 12 A. Yes.  
 13 Q. And just so I understand the process, I mean,  
 14 did you take the initial run at drafting this in terms of  
 15 the business goals and the learning goals and the  
 16 accomplishments and the disappointments, then Mr. Szerlong  
 17 would give you input and the document would get edited?  
 18 A. Correct.  
 19 Q. Then he did the rating section?  
 20 A. Correct.  
 21 Q. Then you both sign off on it, at least  
 22 electronically sign off on it?  
 23 A. Correct.  
 24 Q. Am I right that this is in the -- there's a